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8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2011-715

13 **JOHN MICHAEL FLATH**  
30 Grand Canyon Ct.  
Sacramento, California 95835

**A C C U S A T I O N**

14 **Registered Nurse License No. 756396**

15 Respondent.

16  
17 Louise R. Bailey, M.Ed., RN ("Complainant") alleges:

18 **PARTIES**

19 1. Complainant brings this Accusation solely in her official capacity as the Executive  
20 Officer of the Board of Registered Nursing ("Board"), Department of Consumer Affairs.

21 2. On or about July 29, 2009, the Board issued Registered Nurse License Number  
22 756396 to John Michael Flath ("Respondent"). The license was in full force and effect at all  
23 times relevant to the charges brought herein and will expire on May 31, 2011, unless renewed.

24 **JURISDICTION**

25 3. Business and Professions Code ("Code") section 2750 provides, in pertinent part, that  
26 the Board may discipline any licensee, including a licensee holding a temporary or an inactive  
27 license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing  
28 Practice Act.

4. Code section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under Code section 2811(b), the Board may renew an expired license at any time within eight years after the expiration.

#### STATUTORY PROVISIONS

5. Code section 2761 states, in pertinent part:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct.

"(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof."

#### COST RECOVERY

6. Code section 125.3 provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

#### FIRST CAUSE FOR DISCIPLINE

##### (Conviction of a Crime)

7. Respondent is subject to discipline under Code section 2761(f), in that on or about August 11, 2010, in the case of *People v. John Michael Flath, aka John Michael Flath III, John M. Flath*, (Super. Ct. Santa Barbara County, Case No. 1333244), Respondent was convicted by the Court on his plea of no contest to violating Penal Code section 602.5(a) (trespassing), a misdemeanor, a crime that is substantially related to the qualifications, functions or duties of a licensed registered nurse.

8. The circumstances of the crime was that on or about May 5, 2010, Respondent was arrested for exposing himself while in a campus library located at the University of California, Santa Barbara. Respondent was charged with violating Penal Code section 647(a) (engaging in

1 lewd conduct). Subsequently, Respondent pled no contest to a lesser charge of trespassing, as  
2 more particularly set forth above in paragraph 7.

3 **FACTORS IN AGGRAVATION**

4 9. In order to determine the degree of penalty to be imposed, if any, complainant  
5 alleges the following as factors in aggravation:

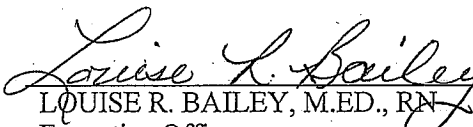
6 10. On or about August 7, 1998, Respondent was arrested for indecent exposure while  
7 in a college campus library located in North Carolina. On or about December 3, 1998, in the case  
8 of *People v. John Michael Flath*, Case No. 1998CR 012803, in Catawba County District Court,  
9 North Carolina, Respondent pled guilty to a lesser charge of second degree trespassing.

10 **PRAYER**

11 **WHEREFORE**, Complainant requests that a hearing be held on the matters herein alleged,  
12 and that following the hearing, the Board of Registered Nursing issue a decision:

- 13 1. Revoking or suspending Registered Nurse License Number 756396, issued to John  
14 Michael Flath;
- 15 2. Ordering John Michael Flath to pay the Board of Registered Nursing the reasonable  
16 costs of the investigation and enforcement of this case, pursuant to Business and Professions  
17 Code section 125.3; and,
- 18 3. Taking such other and further action as deemed necessary and proper.

19  
20 DATED: 2/22/11

  
LOUISE R. BAILEY, M.ED., RN  
Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
Complainant

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